

ER

Executive Registry
77-5676/1

22 September 1977

MEMORANDUM FOR: Director of Central Intelligence

FROM: John F. Blake
Acting Deputy Director of
Central Intelligence

BERNIE:
2 DCI Appraisals -
= below, & enclosed.

SUBJECT: EEO Complaint System

Concur by

1. Action Requested: Approval of the recommendation in paragraph 3.
(ENCLOSED)

2. Background: I support the recommendation made to you by Omega Ware. Our regulations and procedures have been deficient in not having established a procedure to ultimately dispose of within the Agency disputes raised under the EEO policies. Omega informs me he has discussed this matter with all appropriate elements and they are in agreement.

If case load actually increases, Concur by

I would make one additional recommendation. I believe our policy statement should state that the final Agency decision is vested in you, as the Agency head, with the right of delegation of the authority to a single senior subordinate, i.e., the DDCI. Being mindful of your workload, I would then propose to operate as follows. As cases come to my attention, I would have prepared a brief summary of the issues and make a recommendation as to whether I exercise my delegation or forward the case to you. While up to now this has been a low-volume business, there are reasons to believe it will increase, particularly on matters pertaining to age. The material to be reviewed is voluminous and, indeed, you have one such case before you now in connection with a [redacted]

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3. Recommendation: I recommend your approval of my above suggestion.

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[redacted]

John F. Blake

Att: ER 77-5676

Executive Registry
77-5676/2

3 OCT 1977

APPROVED: _____
Director of Central Intelligence

DISAPPROVED: _____
Director of Central Intelligence

DATE: 3 OCT 1977

*I'd like to stay involved until later:
I've become familiar with our EEO problems*

SUBJECT: EEO Complaint System

Distribution:

Orig - DCI (for return to D/EEO via ADDCI)

1 - D/EEO

1 - ADDCI

1 - DCI

1 - ER

ADDCI:JFBlake:kmg (22 Sep 77)

Att: Memo dtd 6 Sep 77 to DCI via ADDCI fr D/EEO, subj: Delegation of
Authority in EEO Complaint System

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6 SEP 1977

Executive Registry

77-5676

MEMORANDUM FOR: Director of Central Intelligence

VIA : Acting Deputy Director of Central Intelligence

FROM : Omega J.C. Ware, Jr.
Director, EEO

SUBJECT : Delegation of Authority in EEO Complaint System

1. Action Requested: Delegation to the Director, Equal Employment Opportunity of authority to adopt Proposed Dispositions as Final Agency Decisions in EEO complaints.

2. Background: Under the Civil Service Commission (CSC) regulation that governs the administration of the Agency's EEO Complaint System (FPM Part 713), a Proposed Disposition is offered to the complainant after the complaint has been investigated and attempts at an informal resolution between the complainant and management have been unsuccessful.

I am informing the Deputy Directors that they, rather than I, make such Proposed Dispositions. Pursuant to FPM Part 713, if the complainant accepts the Proposed Disposition, the case is closed. If the complainant rejects the Proposed Disposition, the case must be sent to you to make the Final Agency Decision.

In the event the complainant does not respond to the Proposed Disposition within the regulation time limit of 15 days, the Director EEO may adopt the Proposed Disposition as the Final Agency Decision if he has been delegated the authority to do so by the Agency Head under those circumstances. If he does not adopt the Proposed Disposition as the Final Agency Decision, he must forward the complaint file to the Agency Head for a decision.

The delegation herein requested is non-controversial. In the situation I have outlined, the Directorate management has offered the Proposed Disposition. If I hold such a delegation from you, I may either accept the Directorate Proposed Disposition as just and equitable and adopt it for the Agency, or, if I am not satisfied with it, I can decline to adopt it, but must then send it on to you for a Final Agency Decision.

3. This procedure, which has been reviewed by the Office of General Counsel, is responsive to both the letter and spirit of the law and regulations. It reflects the belief that it is in the interest of both the complainant and the Agency to provide an impartial judgment made by a senior Agency official who is not a party, either personally or institutionally, to the complaint, and who has no vested interest in the outcome of the case. At the same time, it relieves the DCI or the DDCI of the responsibility for reviewing cases whose issues do not merit their personal time and attention.

[Redacted Signature Box]

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Omego J. C. Ware, Jr.

CONCUR:

did not sign

Director of Central Intelligence Date

Attachment:

Memo to Deputy Directors
From D/EEO, Dated 6
September 1977

25X1
Originated by: [Redacted]
Distribution
DCI
DDCI
D/EEO
ER

6 SEP 1977

MEMORANDUM FOR: Deputy Director for Operations
Deputy Director for Intelligence
Deputy Director for Science and Technology
Acting Deputy Director for Administration
Chairman, E Career Service

ATTENTION : EEO Officers of Directorates

FROM : Omega J.C. Ware, Jr.
Director, EEO

SUBJECT : Proposed Dispositions in EEO Complaint Cases
to be Made by Directorates

1. Federal Personnel Manual Part 713 is the body of the Civil Service Commission (CSC) regulations directing the operation of the EEO Complaint System in the federal government. While explicit in some matters, it is purposely non-specific in others, to allow the flexibility required by the diverse natures, structures, and operations of the varied federal components it governs. As our experience with the system grows, our ability to adopt and adapt, as appropriate, pertinent regulations to the situation peculiar to CIA requirements increases.

2. We continue our efforts to formulate procedures that are consistent with Part 713, fair to a complainant whose charges have been at least partially supported by an EEO investigation, and that take into account the prerogatives and responsibilities of management in meeting its obligations. Consequently, I am introducing the following:

After a formal complaint has been filed, investigated, and the investigator's report completed, the Director of EEO will provide an opportunity for the representative(s) of Directorate management (or its equivalent if the component concerned is not within one of the four Directorates) to meet together with the complainant to attempt to reach agreement on the resolution of the complaint. If a settlement is reached, it will be reduced to writing and signed by both the complainant and the representative of the Directorate, ending the complaint procedures.


If an agreement is not arrived at, the Directorate management will, after further deliberation and consideration of the complainant's position and the results of the investigation, make a Proposed Disposition

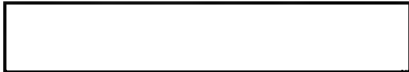
of the complaint, which will constitute, in effect, the final offer that Directorate management is prepared to make. This Proposed Disposition will be given to the D/EEO who will incorporate it into a letter to the complainant outlining the latter's right to a decision by the DCI if he or she will not accept the Proposed Disposition.

If the Complainant accepts the Proposed Disposition, the complaint case is closed. If the complainant rejects the Proposed Disposition, he or she must request within 15 days a decision by the DCI or his designee, either with or without a hearing by a CSC Complaints Examiner.

If the complainant fails to respond within 15 days, the D/EEO may adopt the Proposed Disposition as the final Agency decision. When this is done, the D/EEO shall transmit the decision by letter to the complainant, informing the complainant of his right to appeal to the CSC's Appeals Review Board and the time limits thereof. If the D/EEO does not adopt the disposition proposed by the Directorate management, the complaint and the complaint file shall be forwarded by the D/EEO to the DCI, or his designee, for the final Agency decision.

3. The preceding differs from the current practice in that it places the responsibility for formulating the Proposed Disposition on Directorate management rather than with the D/EEO. If the Proposed Disposition stage (which is prescribed by law, although in general terms) is to be meaningful, management will have to give thoughtful reconsideration to the complaint and, if warranted, modify the position taken during the attempt at informal resolution, to avoid a mere re-iteration of terms already known to be unacceptable to the complainant.


Omega J.C. Ware, Jr.

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Originated by: 
Distribution

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EEO File

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membership or nonmembership in the complainant's group needed to facilitate an adjustment of the complaint or to make an informed decision on the complaint shall, if available, be recorded by name in the investigative file. (As used in this subpart, the term "investigative file" shall mean the various documents and information required during the investigation under this section—including affidavits of the complainant, of the alleged discriminating official, and of the witnesses and copies of, or extracts from, records, policy statements, or regulations of the agency—organized to show their relevance to the complaint or the general environment out of which the complaint arose.) If necessary, the investigator may obtain information regarding the membership or nonmembership of a person in the complainant's group by asking each person concerned to provide the information voluntarily; he shall not require or coerce an employee to provide this information.

(b) The Director of Equal Employment Opportunity shall arrange to furnish to the person conducting the investigation a written authorization (1) to investigate all aspects of complaints of discrimination, (2) to require all employees of the agency to cooperate with him in the conduct of the investigation, and (3) to require employees of the agency having any knowledge of the matter complained of to furnish testimony under oath or affirmation without a pledge of confidence.

Sec. 713.217 Adjustment of complaint and offer of hearing. (a) The agency shall provide an opportunity for adjustment of the complaint on an informal basis after the complainant has reviewed the investigative file. For this purpose, the agency shall furnish the complainant or his representative a copy of the investigative file promptly after receiving it from the investigator, and provide opportunity for the complainant to discuss the investigative file with appropriate officials. If an adjustment of the complaint is arrived at, the terms of the adjustment shall be reduced to writing and made part of the complaint file, with a copy of the terms of the adjustment provided the com-

plainant. If the agency does not carry out, or rescinds, any action specified by the terms of the adjustment for any reason not attributable to acts or conduct of the complainant, the agency shall, upon the complainant's written request, reinstate the complaint for further processing from the point processing ceased under the terms of the adjustment.

(b) If an adjustment of the complaint is not arrived at, the complainant shall be notified in writing (1) of the proposed disposition of the complaint, (2) of his right to a hearing and decision by the agency head or his designee if he notifies the agency in writing within 15 calendar days of the receipt of the notice that he desires a hearing, and (3) of his right to a decision by the head of the agency or his designee without a hearing.

* (c) If the complainant fails to notify the agency of his wishes within the 15-day period prescribed in paragraph (b) of this section, the appropriate Equal Employment Opportunity Officer may adopt the disposition of the complaint proposed in the notice sent to the complainant under paragraph (b) of this section as the decision of the agency on the complaint when delegated the authority to make a decision for the head of the agency under those circumstances. When this is done, the Equal Employment Opportunity Officer shall transmit the decision by letter to the complainant and his representative which shall inform the complainant of his right of appeal to the Commission and the time limit applicable thereto and of his right to file a civil action as described in section 713.281. If the Equal Employment Opportunity Officer does not issue a decision under this paragraph, the complaint, together with the complaint file, shall be forwarded to the head of the agency, or his designee, for decision under section 713.221.

Sec. 713.218 Hearing. (a) *Complaints examiner.* The hearing shall be held by a complaints examiner who must be an employee of another agency except when the agency in which the complaint arose is (1) the government of the District of Columbia or (2) an agency which, by reason of law, is prevented

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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

FROM:

EXTENSION

NO.

DATE

Director, EEO

TO: (Officer designation, room number, and building)

DATE

OFFICER'S
INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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